

AMENDED IN SENATE MAY 28, 2014

AMENDED IN SENATE MAY 6, 2014

AMENDED IN ASSEMBLY MAY 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 380

Introduced by Assembly Member Dickinson

February 14, 2013

An act to ~~amend Sections 8670.31 and 8670.35 of the Government Code, and to add Article 5 (commencing with Section 25547) to Chapter 6.95 of Division 20 of the Health and Safety Code, relating to oil spills~~ *hazardous materials*.

LEGISLATIVE COUNSEL'S DIGEST

AB 380, as amended, Dickinson. ~~Oil spills: oil spill prevention and response. *Spill response for railroads*.~~

(1) ~~The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response. Existing law directs the Governor to require the administrator to amend, not in conflict with the National Contingency Plan, the California oil spill contingency plan to add a marine oil spill contingency planning section containing specified elements, including an environmentally and ecologically sensitive areas element. Existing law also requires the administrator to adopt and implement regulations governing the adequacy of oil spill contingency plans to be prepared and implemented. Existing law authorizes a local government with jurisdiction over or adjacent to marine waters, as defined, to apply for~~

~~a grant from the Oil Spill Prevention and Administration Fund to complete, update, or revise an oil spill contingency plan element.~~

~~This bill would require the administrator to post each oil spill contingency plan it receives on its Internet Web site for public review and would require the administrator to solicit public comment.~~

~~This bill instead would require the administrator to offer grants to a local government with jurisdiction over or directly adjacent to surface waters within the boundaries of the state to complete, update, or revise an oil spill contingency plan element and to train personnel to administer and implement the oil spill contingency plan element.~~

~~(2) Existing~~

Existing law requires the Office of Emergency Services to implement regulations establishing minimum standards for business plans and area plans relating to the handling and release or threatened release of hazardous materials. Existing law requires the establishment of a statewide environmental reporting system for these plans.

~~This bill would require the operator of the railroad a rail carrier, as defined, to report specified information regarding the transportation of hazardous materials, beginning no later than January 31, 2015, to the office on a monthly quarterly basis when a railroad transports rail cargo that includes oil or oil products, as defined. The bill would require a railroad transporting oil and oil products in this state each rail carrier to maintain a response management communications center to be available 24 hours each day for the purpose of communicating with the 911 emergency response centers of primary local public safety agencies that respond to or are on the scene of a railroad-involved hazardous spill or critical railroad-involved incident. The bill would require every refinery operating in the state that receives one or more deliveries of oil and oil products that have been transported by railroad report specified information to the office on a monthly basis. center, as specified. The bill would require the office to provide a copy of each report disseminate relevant information from the quarterly reports it receives pursuant to this act to each unified program agency, as defined, when the office determines a unified program agency area of responsibility may be impacted by oil and oil product cargo transported by a railroad and to maintain those reports in a specified manner a hazardous material or oil cargo spill. The bill would require each rail carrier to provide the office with a summary of the rail carrier's hazardous materials emergency response plan, as specified. The bill would require the office to provide a copy of each summary report of~~

a rail carrier's hazardous materials emergency response plan to each unified program agency when the office determines a unified program agency area of responsibility may be impacted by a rail carrier spill of hazardous material or oil cargo and that unified program agency has been identified by the rail carrier, in consultation with the office, as able to receive security sensitive information, as specified, on a need-to-know basis. The bill would prohibit a recipient of the reports and hazardous materials emergency response plan from divulging or making known that information to unauthorized recipients, as specified. The bill would exempt the reports and hazardous materials emergency response plan from the California Public Records Act.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 5 (commencing with Section 25547) is
2 added to Chapter 6.95 of Division 20 of the Health and Safety
3 Code, to read:

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5 Article 5. Spill Prevention and Response for Railroads

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7 25547. For purposes of this article, the following terms have
8 the following meanings:

9 (a) "Hazardous material" means a substance or material that
10 the United States Secretary of Transportation has determined to
11 be capable of posing an unreasonable risk to the health, safety,
12 and property of residents when transported in commerce and has
13 been designated as hazardous pursuant to Section 5103 of Title
14 49 of the United States Code. Hazardous material includes
15 hazardous substances, as defined in Section 25501, hazardous
16 wastes, marine pollutants, elevated temperature materials,
17 materials designated as hazardous in Section 172.101 of Title 40
18 of the Code of Federal Regulations, and materials that meet the

1 *defining criteria for hazard classes and divisions in Part 173 of*
2 *Title 49 of the Code of Federal Regulations.*

3 *(b) "Office" means the Office of Emergency Services.*

4 *(c) "Oil" has the same meaning as in Section 8670.3 of the*
5 *Government Code.*

6 *(d) "Rail carrier" means a person providing common carrier*
7 *railroad transportation for compensation, but does not include*
8 *street, suburban, or interurban electric railways not operated as*
9 *part of the general system of rail transportation.*

10 25547.2. *(a) No later than January 31, 2015, and every three*
11 *months thereafter, a rail carrier shall submit to the office*
12 *commodity flow data for the prior three months broken down by*
13 *county and track route relevant to the 25 largest hazardous*
14 *material commodities transported through the state, including*
15 *tank cars loaded with oil cargo. The commodity flow data shall*
16 *conform to all of the following:*

17 *(1) Be in accordance with Subpart G of Part 172 of Title 49 of*
18 *the Code of Federal Regulations and in Standard Transportation*
19 *Commodity Code numeric sequence.*

20 *(2) Include a description of the hazardous material or oil cargo*
21 *and commodity name organized by number of carload type,*
22 *including tank cars and gondola cars, intermodal loads, including*
23 *trailers, containers and tank containers, and total loads transported*
24 *within a county over the prior three months.*

25 *(3) Be encrypted and stamped as security sensitive information*
26 *material, as identified pursuant to Section 15.5 of Part 15 of Title*
27 *49 of the Code of Federal Regulations.*

28 *(b) The office shall disseminate relevant information from the*
29 *quarterly reports prepared pursuant to this section in whole or in*
30 *summary form to a unified program agency, as defined in Section*
31 *25501, when the office determines a unified program agency area*
32 *of responsibility may be impacted by a hazardous material or oil*
33 *cargo spill. Rail carriers shall provide additional information to*
34 *the office, as necessary, to assist a unified program agency with*
35 *its emergency response.*

36 25547.4. *Each rail carrier shall maintain a response*
37 *management communications center, which shall provide real-time*
38 *information to an authorized public safety answering point or 911*
39 *emergency response center about the train consist involved in a*

1 *hazardous material or oil cargo spill or other critical incident,*
2 *including, but not limited to, both of the following:*

3 *(a) Hazardous material movement shipping papers, including*
4 *a way bill or total trace, detailing the hazardous material or oil*
5 *cargo.*

6 *(b) Information that can assist the primary local public safety*
7 *agency in containing and safely removing a hazardous material*
8 *spill.*

9 25547.6. *(a) Each rail carrier shall provide the office with a*
10 *summary of the rail carrier's hazardous materials emergency*
11 *response plan. The hazardous materials emergency response plan*
12 *shall not be posted on a public Internet Web site or be subject to*
13 *public agency or public review and approval processes.*

14 *(b) The office shall provide a copy of each summary report of*
15 *a rail carrier's hazardous materials emergency response plan to*
16 *each unified program agency, as defined in Section 25501, when*
17 *the office determines a unified program agency area of*
18 *responsibility may be impacted by a rail carrier spill of hazardous*
19 *material or oil cargo and that unified program agency has been*
20 *identified by the rail carrier, in consultation with the office, as*
21 *able to receive security sensitive information, as identified pursuant*
22 *to Section 15.5 of Part 15 of Title 49 of the Code of Federal*
23 *Regulations, on a need-to-know basis.*

24 25547.8. *(a) A recipient of the reports and plans provided*
25 *pursuant to Sections 25547.2 and 25547.6 shall not divulge or*
26 *make known that information to unauthorized recipients, including,*
27 *but not limited to, individuals or organizations not legally*
28 *authorized to engage in emergency planning and response*
29 *activities.*

30 *(b) The reports and plans provided pursuant to Sections*
31 *25547.2 and 25547.6 shall be exempt from the California Public*
32 *Records Act (Chapter 3.5 (commencing with Section 6250) of*
33 *Division 7 of Title 1 of the Government Code), except that the*
34 *office may authorize disclosure if, in the discretion of the office,*
35 *disclosure relevant to a particular shipment is necessary to provide*
36 *for its safe transport through the state.*

37 SEC. 2. *The Legislature finds and declares that Section 1 of*
38 *this act, which adds Section 25547.8 to the Health and Safety Code,*
39 *imposes a limitation on the public's right of access to the meetings*
40 *of public bodies or the writings of public officials and agencies*

1 *within the meaning of Section 3 of Article I of the California*
2 *Constitution. Pursuant to that constitutional provision, the*
3 *Legislature makes the following findings to demonstrate the interest*
4 *protected by this limitation and the need for protecting that*
5 *interest:*

6 *In order to provide for the safe transport of hazardous materials*
7 *through the state and to avoid creating a transportation security*
8 *risk, it is in the state's interest to limit public access to this*
9 *information.*

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12 **All matter omitted in this version of the bill**
13 **appears in the bill as amended in the**
14 **Senate, May 6, 2014. (JR11)**
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